

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SILVERTOP ASSOCIATES, INC.	:	
d/b/a RASTA IMPOSTA,	:	
	:	
Plaintiff,	:	Civil Action No.
	:	1:17-cv-07919-NLH-KMW
vs.	:	
	:	
KANGAROO MANUFACTURING, INC.,	:	DECLARATION OF
	:	<u>JUSTIN LIGERI</u>
Defendant.	:	
	:	

Justin Ligeri hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am the President of Kangaroo Manufacturing, Inc. (“Kangaroo”) the defendant in the above-captioned matter. In this regard, I have personal knowledge of the matters set forth herein. I submit this Declaration in Opposition to Plaintiff’s Motion for a Preliminary Injunction and in Support of Kangaroo’s Cross-Motion to Dismiss.

This Court Lacks Personal Jurisdiction Over Defendant Kangaroo

2. Kangaroo is a Florida corporation with its principal place of business in Tempe, Arizona.

3. Kangaroo is a wholesaler, and does not sell its products directly to the public.

4. Instead, Kangaroo sells its products to several “Resellers,” who then sell them through various retail channels.

5. Kangaroo does not have any interest in, and does not control, any of the resellers. In particular, Kangaroo does not control when, where, or to whom its products are sold by the resellers.

6. Kangaroo maintains a copy of its catalog on its website, kangaroomfg.com, but this website is “passive,” and does not allow prospective customers to purchase products directly from the website.

7. Kangaroo is not authorized to do business in New Jersey.

8. Kangaroo has not appointed any agents for service of process in New Jersey.

9. Kangaroo does not have any facilities, offices or employees in New Jersey.

10. Kangaroo does not own any real property in the State of New Jersey.

11. Kangaroo does not have any telephone listings or bank accounts in New Jersey.

12. Kangaroo does not advertise in the State of New Jersey.

13. Kangaroo does not regularly solicit business in the State of New Jersey.

14. Kangaroo has not sold any banana costumes to resellers in the State of New Jersey.

Amount of Sales of Banana

15. In the event that the Court were to grant a preliminary injunction against defendant’s sales of its banana costumes, we would ask the Court to require the plaintiff to post an injunction bond to protect us in the event that we are ultimately successful in this action.

16. We would ask that a bond be posted in the amount of \$300,000. Notably, in 2017, Kangaroo sold banana costumes to resellers in excess of \$102,461.54.

Kangaroo Did Not Copy Plaintiff’s Banana Design

17. Although plaintiff contends that Kangaroo copied its banana costume design, this allegation is false. The design is based upon the functional needs of a costume along with the depiction of an actual banana. The design of Kangaroo's banana costume mimics the natural shape and features of a ripe unpeeled banana.

18. Kangaroo's banana costume is actually different from plaintiff's in several respects, including different measurements and shape of the face, arm and leg cutouts, a different shade of yellow, different line features, and the costume is made of a different fabric.

I certify under penalty of perjury that the foregoing is true and correct. Executed on
December 21, 2017.



Justin Ligeri